
Dealing With Trafficking in Persons: Another Dimension of United States and India Transformation

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Introduction

During the past two years, the United States and India have transformed their bilateral relations by developing profoundly new patterns of collaboration. I am confident that historians will look back and regard this fundamental change in United States and India relations as one of the most important strategic developments of the first decade of this century. A guiding document in United States and India transformation is the recently issued *National Security Strategy of the United States*, a report that bears the personal stamp of President Bush. Let me quote a passage on India:

... The United States has undertaken a transformation in its bilateral relationship with India based on a conviction that U.S. interests require a strong relationship with India. We are the two largest democracies, committed to political freedom protected by representative government. India is moving toward greater economic freedom as well. We have a common interest in the free flow of commerce, including through the vital sea-lanes of the Indian Ocean. Finally, we share an interest in fighting terrorism and in creating a strategically stable Asia. We start with a view of India as a growing world power with which we have common strategic interests.

President Bush and Prime Minister Vajpayee, recognizing and acting upon this strategic vision, have given historic impulse to our efforts at building a close relationship in all fields of bilateral interaction, including diplomatic teamwork, counter terrorism, counter proliferation, defense and military-to-military teamwork, intelligence exchange, law enforcement, public health, including research, and humanitarian affairs.

In my view, these supportive relations between America and India will endure over the long run, most importantly because of the convergence of their democratic values and vital national interests. Indian and American democratic principle including a common respect for individual freedom, the rule of law, the importance of civil society, and peaceful state-to-state relations, bind us.

Our overlapping vital national interests of promoting peace and freedom in Asia, combating international terrorism, and slowing the spread of weapons of mass destruction (WMD) also give concrete purpose to this new United States and India relationship. Consistent with India's rise as a global power, United States and India cooperation has transcended strictly bilateral issues to address international problems that affect the values and national interests of both nations.

In this context, there is an example I want to especially to talk about on this occasion, a deadly scourge usually under the media's radar screen that is global in its dimensions and destructive in its effects. I speak about trafficking in persons, and particularly trafficking in women and children. Here, I am reminded of Graham Greene's judgment that, "Any victim demands allegiance." These tragic individuals, ladies and gentlemen, demand our allegiance. That is why I am here with you in Mumbai today. This heinous crime, which transports people from around the world for purposes of domestic servitude, unlawful industrial and agricultural work, illegal adoption, forced begging, and the sex industry, traps innocents in what amounts to modern-day

slavery. In July 2001, Secretary of State Colin Powell put it like this; "It is incomprehensible that trafficking in persons should be taking place in the 21st century. But it is true, very true."

Trafficking is, of course, morally abhorrent. The thought that one person should possess another, exploiting the victim's body, labor, and talents is an outrage. It destroys the lives of blameless human beings. It violates their human rights. There is no redress for their plight from the criminals, the exploiters, and the betrayers. Trafficking denies its victims' dignity, as its sufferers are often tortured and abused. It corrupts the rule of law when policemen, judges and other government officials are pressured and bribed to look the other way.

The American and Indian governments acknowledge these horrible facts, and both are embarking together on a concerted campaign against this atrocity. Trafficking in persons affects our two nations directly. We are both countries of destination, of transit and/or of origin for these misfortunates. Trafficking in women and children, like other transnational crimes and like human immuno-deficiency virus/acquired immune deficiency syndrome (HIV/AIDS), which it invariably spreads, is a global problem, demanding solutions based on international partnerships and in United States and India bilateral assistance.

Let me say a word about HIV/AIDS. Political will at all levels to deal with HIV/AIDS is essential to avoid disaster. As we have learned in the United States, sustained prevention and promotion of safe behavior are fundamental to the mitigation of HIV/AIDS.

Women and girls are among the most vulnerable to infection. Regrettably, according to the *National Family Health Survey*, only about 40 percent of married women in India have ever heard of HIV/AIDS. To paraphrase Francis Bacon, for these women, knowledge would be power over their own life and death. They must be given the opportunity to protect themselves from unsafe behavior that puts them at higher risk of exposure. In the sex industry, women must be able to make themselves safe from clients who refuse to use condoms.

Both HIV/AIDS and trafficking plague the powerless, and it is important to understand how we can weaken synergy between the two. HIV/AIDS often carries disgrace with it. Fear, ignorance, discrimination, religious and social norms sometime produce persecution of individuals with HIV/AIDS, and lead to harassment of their families. Those with HIV/AIDS are our brothers, sisters, sons, daughters, wives, husbands, relatives, colleagues, friends, and neighbors. We must battle the virus, and not brutalize the afflicted.

It is appropriate to speak on the problem of trafficking in persons here in Mumbai because, among all of India's major urban centers, this city is a prime magnet for human traffickers and particularly for traffickers in women and girls. Mumbai and the state of Maharashtra, to their credit, and I will return to this later, also stand out as one of the jurisdictions within India that has recognized the full extent of this blight, and worked hard to end it.

The Global Nature of Trafficking

Trafficking in women and children, which Secretary Powell condemns as an abomination against humanity, was a recognized bane long before globalization became a recognized phenomenon. However, more open borders and speedier and more accessible computer and communication technologies have greatly facilitated trafficking on a global scale. This crime finds its nesting place in poverty, structured inequities in society, gender discrimination, erosion of traditional family values, the rise in organized crime, spreading sex tourism, war and armed conflict, and other forms of natural or man-made disasters.

As a result of these factors, the United Nations (U.N.) and other international organizations estimate that at least one million people each year are bought, sold, transported and held against their will for sexual abuse and exploitation or forced labor, in slave-like conditions. Such human trafficking takes place across international borders as well as within countries. Victims are usually taken or enticed from rural areas to urban centers, from quiet villages to city districts of prostitution. The criminal perpetrators of human trafficking typically target and prey upon poor

families and their impressionable children, through the use of deception, including false marriage offers and bogus promises of big city success and financial gain.

The Problem in the United States

An estimated 50,000 women and children are trafficked into the United States each year, according to the U.S. Department of Labor. Mexico is a principal source because of the long border the two countries share. However, the origin of the trafficking problem for America extends to China and into Southeast Asia, including Cambodia and Thailand, and to Eastern European countries such as Albania and Moldova.

An April 2000 study by the U.S. Central Intelligence Agency indicates the following:

- There have been reports of trafficking instances in at least twenty different states, with most cases occurring in New York, California, and Florida (and the) Immigration and Naturalization Service has discovered over 250 brothels in twenty-six different cities, which likely involved trafficking victims. Evidence suggests that state and local law enforcement officials appear to have only scratched the surface of the problem. Trafficking cases are hard to uncover as the crime usually occurs behind closed doors and language and cultural barriers often isolate the victims.
- Women have been trafficked to the U.S. primarily for the sex industry sweatshop labor, domestic servitude, and agricultural work. Women have also been trafficked to provide maid services at motels and hotels, peddle trinkets on subways and buses, and beg. The average age of the trafficking victim in the United States is roughly twenty years old. Some of the Asian women may have been initially trafficked overseas at a much younger age, but then worked in cities such as Bangkok before being trafficked to the U.S.

The inhumane treatment of these victims is heart rending. In the mid-1990s a large number of young women from Vera Cruz, Mexico, were recruited by a Mexican crime family and smuggled over the U.S. border. These women were told they would be given good jobs in the restaurant business in the United States. Instead, they were brought to isolated trailers in rural parts of Florida and forced to engage in prostitution. If they refused, the women were beaten and threatened with death. Some of the women were forced to have abortions. The authorities eventually liberated the women and a number of the smugglers were convicted. Nevertheless, several defendants were able to escape to Mexico before U.S. authorities could arrest them.

Let me give another of many, many painful American examples. Some seventy Thai laborers, predominantly women from impoverished backgrounds with little education, were brought to the United States. The Thai traffickers promised the women high wages, good working hours, and freedom. Once they arrived in America, they were forced to labor in a sweatshop, working some twenty-hour shifts. These Thai nationals were held against their will and systematically abused. They were incarcerated in primitive conditions in a clandestine garment factory. High perimeter walls, razor wire, and corrugated steel panels were erected to conceal the facility. Additionally, around the clock sentries were installed to ensure no one escaped from the compound. The victims were made to pay an indentured servitude debt of between \$8,000 and \$15,000, and forced to write fake letters home, praising their working conditions.

U.S. Efforts to Combat Trafficking

Experts say that one of the most difficult realities in the trafficking issue is the propensity of governments around the world to treat victims as criminals or unwanted, undocumented workers rather than as individuals with basic human rights. A new U.S. law, the *Victims of Trafficking and Violence Protection Act*, is designed to rectify the problem. The act has far-reaching scope, such as giving prosecutors new tools to acquire legal immigration status for victims of trafficking.

In addition, the legislation increases prison terms for all slavery violations from ten years to twenty years, and adds life imprisonment when the violation involves the death, kidnapping, or sexual abuse of the victim. The law seeks to protect victims of servitude who fear reprisals should

they contact the police about their incarceration. Captors intimidate the abused by saying they will be thrown in jail and then deported to their native land, or be killed. U.S. regulations now stipulate that an illegal immigrant reporting this crime will be treated humanely and extended certain rights, including permission to stay in the United States for a period of time.

Reflecting a determination by the Bush Administration to address this issue, Secretary of State Powell will host an International Conference on Trafficking in Persons in Washington, February 23-25. Two-hundred and fifty representatives from all over the world, including thirteen from India, will attend the Conference to share experiences, and to find new and more effective ways to deal with this crime.

The Indian Experience

India is committed to preventing, combating and eliminating human trafficking, even in the face of domestic statutory, institutional and programmatic obstacles. The *Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children*, which the Department of Women and Child Development introduced in 1998, is an essential policy statement by the Indian government to determine the nature, scope and direction of future programs in the fight against trafficking in persons. The plan provides to government ministries and departments, both at the center and in the states, an action agenda covering legal and regulatory reform, law enforcement, prevention through public awareness, rescue and shelter of victims, their medical care and rehabilitation, their return to normal family and educational structures, and their economic empowerment and reintegration into the labor market.

Although this Indian government roadmap is comprehensive, only elements of it have thus far been implemented. Several states have created advisory committees to mobilize greater resources for the fight against trafficking. A new concept called Swadhar has been instituted to provide emergency assistance to trafficked women and girls. The Indian National Human Rights Commission has begun to set up a network of state liaison officers exclusively dedicated to the monitoring and investigation of human trafficking.

Among the states, Maharashtra in particular has intensified its campaign against trafficking in persons. It has put in place clear policies governing the rescue of trafficking victims, working in close partnership with numerous non-government organizations. The result has been a significant improvement in the quality of care and protection provided in group homes and shelters for trafficked women and girls. The Maharashtra Ministry of Tourism is collaborating with committed non-government organizations and the transportation industry to identify how transport operators might contribute to the fight against human trafficking, either by alerting police authorities to the presence of suspected traffickers among their passengers, or by steering obviously at-risk and vulnerable women and girls to shelters and safe houses where they might be afforded protection.

India's Challenges

Despite India's efforts in its anti-trafficking agenda, much more remains to be done, just as in America. One frustrating handicap in the fight against human traffickers is the lack of reliable statistics. Campaigners also point to the multiplicity of laws under which trafficking and associated acts can be prosecuted as a complicating factor in trying to distill dependable statistics.

The relatively low rate of convictions against traffickers by judicial authorities is a second barrier to India's progress in the fight against trafficking. Cases are being prosecuted, but because the Indian legal system is overburdened, it takes a long time between filing a case and the final conviction. Legal action appears to be significantly delayed when traffickers are charged only under bailable statutes. Once given bail, they either flee or engage in excessive delaying tactics to avoid trial and possible punishment. The government's 1998 plan of action included a recommendation for the establishment of a trafficking law enforcement bureau, along the lines of the Narcotics Control Bureau. If that proposal were implemented, it would be a formidable new weapon against trafficking.

There are numerous other reasons for the relatively low rate of trafficking prosecutions and convictions in India. This is, after all, the first time that significant emphasis has been put on an offense this complex, which can incorporate rape, fraud, organized crime and torture. Processing these cases for trial requires special investigative and evidentiary collection techniques that the average policeman may lack. Successful prosecution is also undermined by the almost universal problem of corruption, which occurs in the world wherever crime involves large sums of money. What is needed instead, to use Edmund Burke's phrase, is "The cold neutrality of an impartial judge." The same should be true of the police.

As law-abiding citizens and compassionate human beings, we naturally expect the judiciary to convict traffickers. However, for the courts to do so, the police must provide support with incontrovertible evidence of crimes committed. Similarly, although we anticipate that prosecutions will be underpinned by solid police evidence, such work will be for naught if the victims of trafficking, once rescued from their brothel-keepers, are not provided with essential follow-up rehabilitation and reintegration services.

Often, trafficking victims are understandably afraid to press charges, knowing that their abusers will be released on bail pending their trial or sentencing, as is the case under ITPA, and thus be in a position to find them and take revenge. Accordingly, while cases can be booked under ITPA, they are more likely to result in convictions if traffickers are also charged with a non-bailable offense so that they may be kept in custody, at a safe distance from their accusers and available for trial.

A Multifaceted Global Response

Trafficking in persons is a complex problem. Since it is international in scope, it involves multiple sovereignties and jurisdictions, including national, state and municipal authorities.

Statutorily, the United States and India not only have national anti-trafficking legislation on the books, but we have both signed the *U.N. Convention Against Transnational Organized Crime* and its accompanying *Protocol against Trafficking in Persons*. I hope that we will also ratify both instruments, in the near future.

In the area of law enforcement, a number of jurisdictions in both the U.S. and India border control agencies and national, state and local police authorities are responsible for investigating and apprehending traffickers in persons. In addition, prosecutorial services indict traffickers and, of course, judicial systems try and convict those found guilty. India renewed its commitment to combating regional human trafficking when it signed the *SAARC Convention on Combating the Crime of Trafficking in Women and Children for Prostitution* in January 2002.

The innocents of human trafficking, too, have engaged the interest and resources of a host of agencies and institutional players. There are medical facilities and services that endeavor to bring the victims back to physical health, and help them recover their psychological and emotional well being. There are non-government organizations engaged in public education about trafficking; sensitization and training of, among others, transportation personnel to enable them to identify and report traffickers and their victims, as they move across frontiers and boundaries and from countryside to metropolis; rescue of trafficking victims from brothels and strip clubs; and victim rehabilitation and reintegration into family, school and community. Finally, our friends in the business sector in the United States and India should do more to shoulder their corporate and social responsibility. They could provide non-government organizations with financial support for the valuable services these organizations offer. They could design and implement skill training programs that can reach villages where the most vulnerable victims have no access to an economic future. They could promote the reintegration of victims of trafficking into the mainstream labor market.

To sum up, the United States and India should strive for a multifaceted approach to trafficking in persons that will:

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- Provide economic assistance to keep poor and vulnerable populations from being trafficked;
 - Develop awareness of the crime so that community-based monitoring systems can be created to detect when girls go missing, or when strangers in the community seek to spirit them away;
 - Monitor transit locations, including border areas, bus and train stations, and airports to rescue persons being trafficked;
 - Respond swiftly to leads or information that indicate that trafficked women and children are being held against their will;
 - Investigate brothels, factories and other places where trafficked women and children are forced to work, free them, and close down these establishments;
 - Prosecute and convict traffickers and those who aid and abet them under high bail or non-bailable sections of statutes to the full extent of the law; and provide victims with physical, psychological and economic assistance to aid in the recovery process.

As we move toward these goals, the right solutions will inevitably call for a variety of interventions, all of them interdependent and mutually reinforcing. This audience is made up of Mumbai and Maharashtra elected political leaders and legislators, judges, prosecutors, police officials, government social welfare executives, health-care professionals, educators, researchers, corporate chief executive officers, non-government organization principals, and anti-trafficking advocates and activists. You all are a living testament to Albert Einstein's mantra that, "Only a life lived for others is a life worthwhile." The United States and India are together in this noble task of ending trafficking in persons, and the human suffering that goes with it. We must succeed. Our humanity depends on it.